

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

DANZAS CORPORATION d/b/a DHL DANZAS
AIR & OCEAN,

Plaintiff,

- against -

KROFTA TECHNOLOGIES CORPORATION,
PETER R. KIRCHNER, MICHAEL NOYES,
NORTHEAST FABRICATORS & MECHANICAL
SERVICES, LLC, and DANIEL SHEPARD,

Defendants.

Civil Action No.: 04-30219-MAP

DEFENDANT SHEPARD'S MOTION FOR SUMMARY JUDGMENT

Defendant Daniel Shepard, by his undersigned attorneys, pursuant to Federal Rule of Civil Procedure 56, and District of Massachusetts Local Rule 56.1, for his Motion for Summary Judgment, states as follows:

1. By this action, Plaintiff Danzas Corporation d/b/a DHL Danzas Air & Ocean ("DHL") sues Defendant Krofta Technologies ("Krofta") on contract and other theories for storage charges for equipment shipped by Krofta to the Dominican Republic and stored there by DHL or an affiliate.
2. Named as Defendants are current and former officers of Krofta. Defendant Shepard was Krofta's President from June 2002 through January 23, 2004.
3. DHL asserts various theories against Defendant Shepard: for Quantum Meruit (Count III); for Negligent Misrepresentation (Count IV); for Intentional Misrepresentation (Count V); for Common-Law Indemnity (Count VII); for Restitution (Count VIII); for Declaratory Judgment (Count X); and for Fraud (Count XI).

4. Defendant Shepard never received any personal benefit from the storage of Krofta's equipment in the Dominican Republic. He made no misrepresentations to DHL. DHL is not entitled to indemnity from him, nor does he owe restitution to DHL.

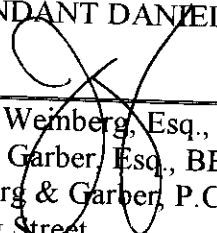
5. Defendant Shepard incorporates herein his Statement of Facts in accordance with District of Massachusetts Local Rule 56.1, filed contemporaneously with this Motion.

6. Defendant Shepard incorporates herein his Memorandum of Law in Support of his Motion for Summary Judgment, filed contemporaneously with this Motion.

WHEREFORE, Daniel Shepard requests that judgment enter in his in his favor and against Plaintiff Danzas Corporation, d/b/a DHL Danzas Air & Ocean, by dismissal with prejudice as to all claims and counts asserted in this action, and for such other and further relief as this Court deems just and proper.

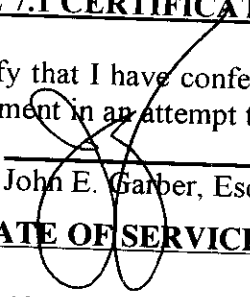
DEFENDANT SHEPARD REQUESTS ORAL ARGUMENT

DEFENDANT DANIEL SHEPARD

By: 
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LOCAL RULE 7.1 CERTIFICATION

I, John E. Garber, Esq., hereby certify that I have conferred with counsel for Plaintiff on the subject of the Motion for Summary Judgment in an attempt to narrow the issues raised.


John E. Garber, Esq.

CERTIFICATE OF SERVICE

I, John E. Garber, Esq., hereby certify that on this 19th day of May, 2005, I served a copy of the foregoing by First Class Mail to counsel.

Subscribed under penalties of perjury.


John E. Garber, Esq.